

LAW OFFICES OF

ROOKS, PITTS AND POUST


1264395 - R8 SDMS

XEROX CENTRE

SUITE 1500

55 WEST MONROE STREET

CHICAGO, ILLINOIS 60603

312-372-5600

TELEX 28-4335

RAPIFAX 312-726-9239

CABLE ADDRESS: ROOKSPITTS

WHEATON OFFICE
201 NAPERVILLE ROAD
WHEATON, ILLINOIS 60187
312-690-8500

CLIFTON A. LAKE

March 24, 1987

Ms. Sandra Moreno
Office of Regional Counsel
United States Environmental
Protection Agency
Region VIII
999 Eighteenth Street
Suite 500
Denver, CO 80202-2405

Re: East Helena, Montana CERCLA Site

Dear Ms. Moreno:

As counsel to American Chemet Corporation, we are responding to your February 23, 1987, letter in this matter received by American Chemet Corporation on February 25. Please be advised that American Chemet intends to fully respond to USEPA's request for information. However, because your letter is the first notification to American Chemet of its potential involvement in this site, it is not possible to fully respond to USEPA's information request within 30 days.

Notwithstanding, we can advise you on behalf of American Chemet as follows. American Chemet began operations at the East Helena, Montana site on January 4, 1947, at which time it began a zinc fume packaging operation. Zinc fume is produced by treatment of slag from primary lead smelting operations. It is used as a raw material in the manufacture of synthetic rubber and in other industrial applications. The consistency of zinc fume is zinc oxide (88%) anhydrous lead sulfate (12%). The initial operation conducted at East Helena was, as noted above, simply the repackaging of railcar quantities of zinc fume purchased from the Anaconda Company, was involved in the production of zinc fume from furnace slag purchased from the Asarco smelter in East Helena. Asarco purchased the Anaconda zinc fume operation in 1972, and at that point American Chemet's supplier of zinc fume became Asarco. Asarco's zinc fuming operation continued until the fall of 1982.

*may be a follow up**pkg.
I'll see abt a
before 10:00**intends*

ROCKS, FITTS AND POUST

Ms. Sandra Moreno
March 24, 1987
Page 2

American Chemet's operations consisted primarily of repackaging bulk-purchased zinc fume product. In addition, however, in an effort to improve the quality of the product by incinerating trace carbon, in 1949 American Chemet installed a small rotary kiln at the East Helena plant. The kiln was exhausted for dust collection to a series of baghouses fabricated by the Company. In early 1974, a much larger baghouse was installed at the packing station in order to improve kiln operation and dust collection. Following the cessation of zinc fume production by Asarco, American Chemet purchased zinc fume from Minera Mexico between April of 1983 and March of 1984. The last bag of zinc fume was packed at the East Helena plant in March of 1984.

In November, 1984, American Chemet converted its fume plant to the processing of a lead free zinc oxide which it markets under the tradename, Zinox. The raw material is a byproduct zinc oxide which is received at East Helena in 95 ton closed pneumatic hopper cars. After transferring to a storage bin, the product is processed in the same system that had previously been used for zinc fume. The material is dried at 400°F and cooled as it is conveyed to a screen, milled, and packaged in 50 pound bags. The final product has a maximum lead content of .08%. Dust collection is employed at each production step. At present, production is about 200,000 pounds per month. Because of limited raw material supplies, it is expected that maximum production will not exceed 500,000 pounds per month. Since startup, American Chemet has produced 3,245,425 pounds of Zinox.

Other products produced at American Chemet's East Helena plant include roasted zinc dross, talc and copper oxides. Roasted zinc dross was produced from zinc fines purchased from electrolytic zinc refineries in the United States. The zinc dross roasting process took place in a single hearth rotary furnace operating at 1,400°F. Roasted zinc dross was primarily zinc oxide (99+%). American Chemet estimates the lead content of roasted zinc dross to be from .01 to .1 percent. Zinc dross roasting operations at East Helena took place from June of 1982 through June of 1986. Prior to that time some zinc dross was packed without roasting. This material was simply repackaged into bags from bulk railcar shipments. During this four year period, American Chemet's records show approximately 1,733,800 pounds of roasted zinc dross was produced.

Talc was milled at American Chemet's East Helena plant between August of 1954 and April of 1966. Talc is magnesium silicate ($3\text{MgO} \cdot 4\text{SiO}_2 \cdot \text{H}_2\text{O}$). It was produced from steatite talc ore mined and processed by American Chemet near Alder, Montana. During this period, the East Helena plant produced 38,357,500 pounds of talc.

Copper oxide production at the East Helena plant is by a variety of techniques, most of which involve roasting and oxidation processes as applied to copper "chops" (scrap copper wire cut to short lengths), and copper scales and muds which are byproducts of copper wire manufacture. These feed stocks exhibit lead contents of less than .1 percent. Steel drums in which the plant receives feed stocks for copper oxide production are crushed and sold to scrap steel dealers. Copper oxide production began in 1964 and continues to the present date. During the past 22 years, the East Helena plant has produced 135,932,922 pounds of copper oxides.

ROOKS, PITTS AND POUST

Ms. Sandra Moreno
March 24, 1987
Page 3

The East Helena plant operates no "treatment" processes as that term is used in paragraph 1 of USEPA's request. The wastes and byproducts from the plant operation were and are entirely recycled back to the production process. Off-site disposal was utilized only for employee lunchroom waste, paper from office operation, and similar non-process wastes.

American Chemet's relationship with Asarco was that of a customer and supplier. As noted above, the Anaconda zinc fuming operation was purchased by Asarco in 1972, and it was from that source that American Chemet obtained its supply of zinc fume to repackage and sell. American Chemet is the owner in fee of 1.2 acres of its East Helena plant. An additional 2.6 acres is leased from Burlington Northern Railway Company. Documentation with respect to the ownership of real property interests requested in paragraph 2 of your letter will be forwarded when we have collected all such documents.

With respect to the information requested in paragraph 3 of your letter, American Chemet has many agreements with its customers who purchased zinc fume, talc and copper oxides produced at the East Helena plant. We interpret the information request as not applying to these contracts insofar as they involve the sale of a product to be used by a manufacturer to produce other products. As noted earlier, the only waste produced and disposed of off-site is office paper waste and employee lunchroom waste.

As requested in paragraph 4 of USEPA's letter, American Chemet will provide a complete financial statement in the near future.

Since 1985 American Chemet has had no insurance coverage which would apply to the release of hazardous wastes or substances to the environment. From 1971 to 1984, all insurance limited liability coverage to "any discharge, dispersal, release, or escape that is sudden and accidental." The amounts of insurance coverage varied from \$300,000 aggregate to \$500,000 aggregate with umbrella coverage from \$1,000,000 to a high of \$7,000,000. The Company cannot locate records of insurance coverage prior to 1971.

Please be advised that pursuant to 42 U.S.C. §9604(e)(7) and 40 C.F.R. Part 2, Subpart B, American Chemet hereby asserts a confidentiality claim covering the financial information which it will submit. We recognize that the procedures of 40 C.F.R. §2.203(b) require the reassertion of American Chemet's claim of confidentiality at the time such information is submitted. We wish, however, to emphasize that American Chemet does consider its financial information and information concerning raw materials used in its continuing operations to be confidential within the meaning of 42 U.S.C. §9604(e)(7). 7
confid.

We expect to be in contact with you in the relatively near future to discuss the manner in which the remaining information requested by USEPA's February 23, 1987 letter, now being collected, will be produced to USEPA.

ROOKS, PITTS AND POUST

Ms. Sandra Moreno
March 24, 1987
Page 4

If you have any questions or comments concerning this response, I suggest that you contact me directly.

Very truly yours,

A handwritten signature in dark ink, appearing to read 'Clifton A. Lake', with a stylized, flowing script.

Clifton A. Lake

CAL/pg

0160218



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION VIII

999 18th STREET—SUITE 500
DENVER, COLORADO 80202-2405

FEB 23 1987

ENVIRONMENTAL PROTECTION
AGENCY

FEB 25 1987

MONTANA OFFICE

Ref: 8RC

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

227-5302

Mr. Bill Porter, Manager
American Chemet
East Helena, Montana 59635

Re: East Helena CERCLA Site

Dear Mr. Porter:

The United States Environmental Protection Agency ("EPA") is conducting an investigation pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act ("CERCLA"), et seq., as amended by the Superfund Amendments and Reauthorization Act of 1986 ("SARA"), 42 U.S.C. §§ 9601-9657 (1986) at the East Helena CERCLA Site. As a part of this investigation, EPA has determined that a release or substantial threat of release has occurred from the American Chemet facility located in East Helena, Montana. You are hereby notified that EPA intends to continue to spend public funds to investigate, control, and mitigate the actual or threatened release of hazardous substances from the American Chemet facility, unless EPA determines that these activities will be performed properly by a responsible party.

Responsible parties ("PRP's") under CERCLA include current and past owners and operators of a facility, as well as the persons who generated, transported, or treated the hazardous substances of concern. Pursuant to section 106(a), a responsible party may be required to abate any imminent and substantial endangerment to the public health or welfare or the environment presented by the release or threatened release. Further, section 107(a) of CERCLA provides that a responsible party may be liable for all costs incurred by the government in responding to any release or threatened release at the site. Such costs may include, but are not limited to, expenditures for investigating, evaluating, and cleaning up the site, and enforcement.

As stated previously, EPA is currently conducting a Remedial Investigation/Feasibility Study ("RI/FS") at the East Helena Site. EPA is not, however, conducting all phases of the RI/FS. Under the terms of an Administrative Order on Consent, EPA and another East Helena PRP, ASARCO, have agreed that ASARCO shall conduct certain surface and groundwater portions of the investigation and prepare an Endangerment Assessment. EPA has determined, however, that additional groundwater investigations must be conducted.

In addition, EPA is seeking to obtain certain information from you for the purpose of enforcing the appropriate provisions of CERCLA and the

Resource Conservation and Recovery Act ("RCRA"), 42 U.S.C. § 6901 et seq., and to assist the Agency in determining the type of response to the release of hazardous substances under CERCLA. Under the provisions of section 104 of CERCLA, 42 U.S.C. § 9604, and section 3007 of RCRA, 42 U.S.C. § 6927, the Administrator of the EPA has the authority to require any person who generates, stores, treats, transports, disposes of, or otherwise handles or has handled hazardous wastes and/or substances to furnish information related to such wastes and/or substances. Pursuant to these statutory provisions, you are hereby requested to provide the following no later than thirty (30) days from the date of receipt of this letter.

1. A narrative explaining the facility's operation throughout your period of ownership/operation. Please document all chemical constituents used in your treatment process and disposal methods practiced for any wastes or by-products. This should include copies of all existing documents relating to the subjects listed above.

2. Copies of all documents, legal and otherwise, pertaining to your ownership of the land and equipment within the Site. This includes, but is not limited to, deeds transferring property to you and any deeds transferring property from you to other assigns, transferees, and successors in interest. Any documents relating to easements for the deposition of products or wastes and by-products should be included.

3. Copies of any contracts or other agreements pertaining to the disposal, treatment, transport, or generation of any product, waste, or by-product.

4. For purposes of ascertaining your ability to pay for or to perform a cleanup at the East Helena CERCLA Site, provide a corporate financial statement detailing your current assets and liabilities, including all real and personal property and all sources of income.

For the above requests, please describe the types of records that were maintained by you of the transactions involving the American Chemet facility, including the date of the records, the author of the records, the current location of the records, and the current custodian and all efforts that were taken to identify these records. If, in answering any of the above questions, information was obtained through employee interviews, indicate so in your letter and provide the names of the employees interviewed. Pursuant to section 103(d)(2) of CERCLA, it is unlawful for any person knowingly to destroy, mutilate, erase, dispose of, conceal, or otherwise render unavailable or unreadable or falsify any records. If you do not have the above requested information, please certify so in an affidavit.

In addition to the above information, if you are insured for any damages resulting from the release of hazardous wastes and/or hazardous substances, please inform us of the existence of such insurance and provide us with copies of all insurance policies both currently in effect and in effect during the period of your ownership of the property or during your activity on the property. Such information should be sent to Ms. Sandra Moreno at the address below.

For purposes of this request, the term "hazardous substances" is used as the term is defined in section 101(14) of CERCLA, 42 U.S.C. § 9601(14).

If you desire, you may assert a confidentiality claim covering all or part of the information requested by following the procedures set forth in section 104(e)(7) of CERCLA, 42 U.S.C. § 9604(e)(7), and 40 C.F.R. Part 2, Subpart B. If you do assert such a claim, the information will be disclosed by EPA only to the extent and by the means set forth in 42 U.S.C. § 9604(e)(7) and 40 C.F.R. Part 2 Subpart B. If no claim of confidentiality is made at the time this information is received by EPA, it may be made available to the public without further notice.


Failure to comply with this request may subject you to enforcement and appropriate injunctive actions pursuant to section 104 of CERCLA, 42 U.S.C. § 9604. Penalties of up to \$25,000 per day of violation may be assessed under section 104(e)(5)(B) of CERCLA, 42 U.S.C. § 9604(e)(5)(B).

The factual and legal discussions contained in this letter are intended for notification and information purposes only. They are not intended to be and cannot be relied upon as a final EPA decision or binding upon EPA concerning any matter set forth herein.

All information requested should be sent to Ms. Sandra R. Moreno at the following address: 999 18th Street, Suite 500, Denver Place, Denver, Colorado 80202-2405. If, after responding to this request, you become aware of or come in possession of additional information which is responsive to the request, you have a continuing obligation to provide such information to EPA within fourteen (14) calendar days thereafter.

If you have any questions, please contact Ms. Sandra R. Moreno, Office of Regional Counsel, at (303) 293-1461.

Sincerely,


Robert L. Duprey, Director
Waste Management Division

cc: S. Moreno, 8ORC
G. Taylor, Montana Office
J. Wardell, Montana Office
J. Linnett, OECM